

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

ABBOTT CARDIOVASCULAR SYSTEMS INC.
and ABBOTT LABORATORIES INC.,

Plaintiffs,

V.

MEDTRONIC VASCULAR, INC. and
MEDTRONIC USA, INC.,

Defendants,

C. A. No. 98-80 (SLR)
(Consolidated with C.A. No. 98-314
(SLR) and C.A. No. 98-316 (SLR))

REDACTED PUBLIC
VERSION

**MOTION TO LIFT STAY OF PROCEEDINGS ON ABBOTT'S MOTION FOR
PERMANENT INJUNCTION AS TO MEDTRONIC'S ENDEAVOR**

Abbott Cardiovascular Systems Inc. and Abbott Laboratories Inc. (collectively “Abbott”) respectfully move the Court to lift the order issued on August 6, 2007, staying proceedings on Abbott’s motion for permanent injunction as to the Endeavor stent (D.I. 756), which Medtronic Vascular, Inc. and Medtronic USA, Inc. (collectively “Medtronic”) recently began selling in the United States after receiving FDA approval on February 1, 2008.

In its stay order, the Court noted that Medtronic’s “‘Endeavor’ stent is a drug-eluting stent that uses as its platform one of the devices found to be infringing at bar” (i.e., the Driver), and that Abbott has requested “a permanent injunction that includes within its scope the ‘Endeavor’ stent” (*Id.*) Although Medtronic’s Endeavor infringes the patents-in-suit because it includes the infringing Driver stent, the Court stayed the injunction proceedings as to the Endeavor pending an arbitration proceeding to resolve Medtronic’s claim that its Endeavor is licensed under the patents-in-suit. (*Id.*)

REDACTED

Now that Medtronic's license claim for the Endeavor has been resolved in Abbott's favor, the Court should lift the stay on permanent injunction proceedings as to the Endeavor. For the reasons explained in Abbott's briefs in support of its motion for a permanent injunction (D.I 727, 805), moreover, the Court should enter a permanent injunction to stop Medtronic from continuing to infringe Abbott's patents-in-suit, including its infringing sales of its Endeavor. Significantly, given that Medtronic has now begun selling the Endeavor in the United States (after receiving FDA approval on February 1), Medtronic's infringement has escalated and thereby has caused further irreparable harm to Abbott.

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Dated: February 26, 2008



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EXHIBIT A

REDACTED IN ITS ENTIRETY

UNITED STATES DISTRICT COURT
DISTRICT OF DELAWARE

CERTIFICATE OF SERVICE


I hereby certify that on March 10, 2008, I caused to be served by hand delivery the foregoing document and electronically filed the same with the Clerk of Court using CM/ECF which will send notification of such filing(s) to the following:

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I hereby certify that on March 10, 2008, I have sent by Federal Express the foregoing document to the following non-registered participants:

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